UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF TENNESSEE NASHVILLE DIVISION

JAMES DOUGLAS SMITH]	0 44 00	00
Plaintiff,	J	3 14 02	99
]	No.	
v.]	(No. 3:13-mc-0179)	
]	Judge Sharp	
METROPOLITAN PUBLIC DEFENDER,]		
et al.]		
Defendants.]		

MEMORANDUM

The plaintiff, proceeding pro se, is an inmate at the Metro Davidson County Detention Facility in Nashville. He brings this action against Dawn Deaner, the District Public Defender for Davidson County; and Joseph Michael Engle and Jonathan Wing, Assistant Public Defenders; seeking injunctive relief and damages.

On June 21, 2013, the plaintiff entered a guilty plea to the charge of criminal simulation. For this offense, he received a sentence of two years and one month in prison.

After reaching his release eligibility date, the plaintiff drafted a pro se motion to suspend the remainder of his sentence. As is the custom in the Criminal Court Clerk's Office, the pro se motion was not filed, but was forwarded to his counsel of record (Joseph Michael Engle).

Counsel chose not to file a separate motion for the suspension of plaintiff's sentence. The plaintiff believes that the defendants

have denied him due process by joining the Clerk's Office in refusing to file his pro se motion.

In essence, the plaintiff is alleging that the defendants have denied him access to the courts. A prisoner has a First Amendment right of access to the courts. <u>Bounds v. Smith</u>, 430 U.S. 817, 821-823 (1977). To show a violation of this right, though, the plaintiff must allege and prove that the defendants' conduct in some way prejudiced the filing or prosecution of a legal matter. <u>Kensu v. Haigh</u>, 87 F.3d 172, 175 (6th Cir.1996).

In this case, the plaintiff's pro se motion sought a hearing to determine whether the remainder of his sentence should be suspended. The plaintiff acknowledges that he received a hearing to discuss that very issue. See Docket Entry No.6. He has not, therefore, shown that he was denied access to the courts. Consequently, the plaintiff has failed to state a claim upon which relief can be granted.

Having failed to state a claim upon which relief can be granted, the Court is obliged to dismiss the complaint *sua sponte*. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.

Kevin H. Sharp

United States District Judge